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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------------|------------------|
| 10/767,277 | 01/28/2004 | Douglas M. Cszaszar | 85921SLP | 4290 |
| 7590 Pamela R. Crocker Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201 | | | EXAMINER SEVERSON, JEREMY R | |
| | | | ART UNIT 3653 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 04/24/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/767,277 | Applicant(s) CSASZAR ET AL. | |
| | Examiner Jeremy R. Severson | Art Unit 3653 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 February 2007 has been entered.

Drawings

The drawings were received on 8 February 2007. These drawings are acceptable.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 4, the claim depends from a cancelled claim. For the purpose of expediting prosecution, the claim will be examined in the remainder of this action as if it depended from claim 1.

Re claim 9, the term "about" is a relative term which renders the claim indefinite. The terms "about 2 inches" and "about 5 inches" are not defined by the claim, the

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specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear precisely what range of distances is being claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 6-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulick (US 2,056,279).

Kulick discloses a cassette for a sheet-shaped image medium having a substantially planar surface along its length, comprising:

- a box member (fig. 1) adapted to house the medium therein, the box member being provided with an opening through which the medium can be fed into and out of the box member along a first substantially planar direction;
- a pivotable access member (11) attached to the box member and pivotably movable about an axis substantially perpendicular to the first direction between a first position wherein the access member is disposed in the opening and a second position wherein the access member is not disposed in the opening; and

- a transport member (23) disposed within the box member configured to move solely in translation, the transport member translating in the first substantially planar direction to move the medium into and out of the box member through the opening when the access member is in the second position, the transport member having a substantially planar surface which contacts the planar surface of the medium along its length when the transport member is moving the medium into and out of the box member.

In regard to claim 2, Kulick discloses a phosphor sheet (34).

In regard to claim 6, the static frictional force between the transport member 23 and the phosphor sheet (34) promotes translation of the sheet.

In regard to claim 7, the movement is actuated by a single operation, shown in part in fig. 4.

In regard to claim 8, Kulick discloses an assist mechanism (31) biased on the first direction to promote translation of the pusher.

In regard to claim 9, Kulick discloses a cassette wherein the transport member translates a distance from about 2 inches to about 5 inches, as shown in fig. 4.

In regard to claim 10, Kulick discloses a guide (24).

In regard to claim 11, Kulick discloses the guide is made of lead (col. 2, line 32).

In regard to claim 12, Kulick discloses an access member (11) which is biased in a first position via a spring (31).

In regard to claim 13, part of the access member (11) is disposed within the box member at the hinge 12 when in the first position and the second position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kulick in view of Pfeiffer.

Regarding claim 4, Kulick discloses everything claimed, except Kulick does not disclose neoprene attached to the surface of the pusher. Pfeiffer discloses attaching a foamy plastic onto a transport member (Pfeiffer, col. 2, lines 45-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach a piece of foamy plastic material (such as neoprene) to the contact surface of the pusher, as taught by Pfeiffer, in order to provide cushioning and protection for the phosphor sheet.

Response to Arguments

Applicant's arguments filed 8 February 2007 have been fully considered but they are not persuasive.

First, the applicant's arguments regarding the Ohta reference are moot in view of the new rejections.

Second, applicant makes two arguments regarding the Pfeiffer reference.

Applicant argues that Pfeiffer does not disclose neoprene, as Pfeiffer only mentions "foamy plastic". Remarks, p. 6. The examiner agrees; however, based on the teaching of Pfeiffer, neoprene would have been an obvious choice of materials to use as the foamy plastic, based on its protective qualities. Applicant further argues that Pfeiffer "does not teach the present invention's use of the neoprene for controlling frictional interaction." Remarks, p. 7. However, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Severson whose telephone number is (571) 272-2209. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeremy R Severson
Examiner
Art Unit 3653

jrs



PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600